

FIRST REGULAR SESSION

HOUSE BILL NO. 119

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BERRY.

0794L.02I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 386.890, RSMo, and to enact in lieu thereof one new section relating to the net metering and easy connection act.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 386.890, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 386.890, to read as follows:

386.890. 1. This section shall be known and may be cited as the "Net Metering and Easy Connection Act".

2. As used in this section, the following terms shall mean:

(1) "Avoided fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any municipal electric utility, rural electric cooperative as provided in chapter 394, or electrical corporation as provided in this chapter;

(2) "Commission", the public service commission of the state of Missouri;

(3) "Customer-generator", the owner or operator of a qualified electric energy generation unit which:

(a) Is powered by a renewable energy resource;

(b) **Is supplied electricity by a rural electric cooperative as defined in chapter 394 and has an electrical generating system with a capacity of not more than one hundred kilowatts unless the rural electric cooperative has approved an electric generating system with a capacity of not more than two hundred fifty kilowatts, as set out in subsection 11 of this section;**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 (c) **Is supplied electricity by any municipal electric utility or any other electric**
18 **corporation or electric utility other than a rural electric cooperative as defined in chapter**
19 **394 and has as an electric generating system with a capacity of not more than two hundred**
20 **fifty kilowatts;**

21 (d) Is located on a premises owned, operated, leased, or otherwise controlled by the
22 customer-generator;

23 [(d)] (e) Is interconnected and operates in parallel phase and synchronization with a retail
24 electric supplier and has been approved by said retail electric supplier;

25 [(e)] (f) Is intended [primarily to offset part or all] **not to exceed one hundred twenty**
26 **percent** of the customer-generator's own electrical energy requirements;

27 [(f)] (g) Meets all applicable safety, performance, interconnection, and reliability
28 standards established by the National Electrical Code, the National Electrical Safety Code, the
29 Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy
30 Regulatory Commission, and any local governing authorities; and

31 [(g)] (h) Contains a mechanism that automatically disables the unit and interrupts the
32 flow of electricity back onto the supplier's electricity lines in the event that service to the
33 customer-generator is interrupted;

34 (4) "Department", the department of natural resources;

35 (5) "Net metering", using metering equipment sufficient to measure the difference
36 between the electrical energy supplied to a customer-generator by a retail electric supplier and
37 the electrical energy supplied by the customer-generator to the retail electric supplier over the
38 applicable billing period;

39 (6) "Renewable energy resources", electrical energy produced from wind, solar thermal
40 sources, hydroelectric sources, photovoltaic cells and panels, fuel cells using hydrogen produced
41 by one of the above-named electrical energy sources, and other sources of energy that become
42 available after August 28, 2007, and are certified as renewable by the department;

43 (7) "Retail electric supplier" or "supplier", any municipal utility, electrical corporation
44 regulated under this chapter, or rural electric cooperative under chapter 394 that provides retail
45 electric service in this state.

46 3. A retail electric supplier shall:

47 (1) Make net metering available to customer-generators on a first-come, first-served
48 basis until the total rated generating capacity of net metering systems equals five percent of the
49 utility's single-hour peak load during the previous year, after which the commission for a public
50 utility or the governing body for other electric utilities may increase the total rated generating
51 capacity of net metering systems to an amount above five percent. However, in a given calendar
52 year, no retail electric supplier shall be required to approve any application for interconnection

53 if the total rated generating capacity of all applications for interconnection already approved to
54 date by said supplier in said calendar year equals or exceeds one percent of said supplier's
55 single-hour peak load for the previous calendar year;

56 (2) Offer to the customer-generator a tariff or contract that is identical in electrical
57 energy rates, rate structure, and monthly charges to the contract or tariff that the customer would
58 be assigned if the customer were not an eligible customer-generator but shall not charge the
59 customer-generator any additional standby, capacity, interconnection, or other fee or charge that
60 would not otherwise be charged if the customer were not an eligible customer-generator; and

61 (3) Disclose annually the availability of the net metering program to each of its
62 customers with the method and manner of disclosure being at the discretion of the supplier.

63 4. A customer-generator's facility shall be equipped with sufficient metering equipment
64 that can measure the net amount of electrical energy produced or consumed by the
65 customer-generator. If the customer-generator's existing meter equipment does not meet these
66 requirements or if it is necessary for the electric supplier to install additional distribution
67 equipment to accommodate the customer-generator's facility, the customer-generator shall
68 reimburse the retail electric supplier for the costs to purchase and install the necessary additional
69 equipment. At the request of the customer-generator, such costs may be initially paid for by the
70 retail electric supplier, and any amount up to the total costs and a reasonable interest charge may
71 be recovered from the customer-generator over the course of up to twelve billing cycles. Any
72 subsequent meter testing, maintenance or meter equipment change necessitated by the
73 customer-generator shall be paid for by the customer-generator.

74 5. Consistent with the provisions in this section, the net electrical energy measurement
75 shall be calculated in the following manner:

76 (1) For a customer-generator, a retail electric supplier shall measure the net electrical
77 energy produced or consumed during the billing period in accordance with normal metering
78 practices for customers in the same rate class, either by employing a single, bidirectional meter
79 that measures the amount of electrical energy produced and consumed, or by employing multiple
80 meters that separately measure the customer-generator's consumption and production of
81 electricity;

82 (2) If the electricity supplied by the supplier exceeds the electricity generated by the
83 customer-generator during a billing period, the customer-generator shall be billed for the net
84 electricity supplied by the supplier in accordance with normal practices for customers in the same
85 rate class;

86 (3) If the electricity generated by the customer-generator exceeds the electricity supplied
87 by the supplier during a billing period, the customer-generator shall be billed for the appropriate
88 customer charges for that billing period in accordance with subsection 3 of this section and shall

89 be credited an amount [at least] equal to the [avoided fuel cost] **retail value** of the excess
90 kilowatt-hours generated during the billing period, with this credit applied to the following
91 billing [period] **periods or once in the lifetime of the generating system, the customer-**
92 **generator, at the customer-generator's discretion, may elect to have on an annual basis**
93 **such excess kilowatt-hours generated credit converted to a dollar amount equal to the**
94 **avoided fuel cost and then within forty-five days of January first of the following year have**
95 **such calculated dollar amount paid as compensation to the customer-generator. Such once**
96 **in a lifetime election shall be made by the customer-generator at the time the application**
97 **for interconnection is submitted to the supplier;**

98 (4) Any credits granted by this subsection shall expire without any compensation [at the
99 earlier of either twelve months after their issuance or] when the customer-generator disconnects
100 service or terminates the net metering relationship with the supplier;

101 (5) For any rural electric cooperative under chapter 394, or municipal utility, upon
102 agreement of the wholesale generator supplying electric energy to the retail electric supplier, at
103 the option of the retail electric supplier, the credit to the customer-generator may be provided by
104 the wholesale generator.

105 6. (1) Each qualified electric energy generation unit used by a customer-generator shall
106 meet all applicable safety, performance, interconnection, and reliability standards established by
107 any local code authorities, the National Electrical Code, the National Electrical Safety Code, the
108 Institute of Electrical and Electronics Engineers, and Underwriters Laboratories for distributed
109 generation. No supplier shall impose any fee, charge, or other requirement not specifically
110 authorized by this section or the rules promulgated under subsection 9 of this section unless the
111 fee, charge, or other requirement would apply to similarly situated customers who are not
112 customer-generators, except that a retail electric supplier may require that a customer-generator's
113 system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located
114 in immediate proximity to the customer-generator's metering equipment that would allow a
115 utility worker the ability to manually and instantly disconnect the unit from the utility's electric
116 distribution system[;] .

117 (2) For systems of ten kilowatts or less, a customer-generator whose system meets the
118 standards and rules under subdivision (1) of this subsection shall not be required to install
119 additional controls, perform or pay for additional tests or distribution equipment, or purchase
120 additional liability insurance beyond what is required under subdivision (1) of this subsection
121 and subsection 4 of this section[;] .

122 (3) For customer-generator systems of greater than ten kilowatts, the commission for
123 public utilities and the governing body for other utilities shall, by rule or equivalent formal action
124 by each respective governing body:

- 125 (a) Set forth safety, performance, and reliability standards and requirements; and
126 (b) Establish the qualifications for exemption from a requirement to install additional
127 controls, perform or pay for additional tests or distribution equipment, or purchase additional
128 liability insurance.

129 7. (1) Applications by a customer-generator for interconnection of a qualified electric
130 energy generation unit meeting the requirements of subdivision (3) of subsection 2 of this section
131 to the distribution system shall be accompanied by the plan for the customer-generator's electrical
132 generating system, including but not limited to a wiring diagram and specifications for the
133 generating unit, and shall be reviewed and responded to by the retail electric supplier within
134 thirty days of receipt for systems ten kilowatts or less and within ninety days of receipt for all
135 other systems. Prior to the interconnection of the qualified generation unit to the supplier's
136 system, the customer-generator will furnish the retail electric supplier a certification from a
137 qualified professional electrician or engineer that the installation meets the requirements of
138 subdivision (1) of subsection 6 of this section. If the application for interconnection is approved
139 by the retail electric supplier and the customer-generator does not complete the interconnection
140 within one year after receipt of notice of the approval, the approval shall expire and the
141 customer-generator shall be responsible for filing a new application.

142 (2) Upon the change in ownership of a qualified electric energy generation unit, the new
143 customer-generator shall be responsible for filing a new application under subdivision (1) of this
144 subsection.

145 8. Each commission-regulated supplier shall submit an annual net metering report to the
146 commission, and all other nonregulated suppliers shall submit the same report to their respective
147 governing body and make said report available to a consumer of the supplier upon request,
148 including the following information for the previous calendar year:

- 149 (1) The total number of customer-generator facilities;
150 (2) The total estimated generating capacity of its net-metered customer-generators; and
151 (3) The total estimated net kilowatt-hours received from customer-generators.

152 **9. The commission shall define net metering as a demand-side program and develop**
153 **cost recovery measures which allow public utilities to recover reasonable costs related to**
154 **net metering.**

155 **10.** The commission shall, within nine months of January 1, 2008, promulgate initial
156 rules necessary for the administration of this section for public utilities, which shall include
157 regulations ensuring that simple contracts will be used for interconnection and net metering. For
158 systems of ten kilowatts or less, the application process shall use an all-in-one document that
159 includes a simple interconnection request, simple procedures, and a brief set of terms and
160 conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is

created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

[10.] **11.** The governing body of a rural electric cooperative or municipal utility shall, within nine months of January 1, 2008, adopt policies establishing a simple contract to be used for interconnection and net metering. For systems of ten kilowatts or less, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures, and a brief set of terms and conditions. **Beginning on or before December 1, 2012, and on or before every December first of each year thereafter, a rural electric cooperative shall vote by resolution to allow customer-generators to install an electric generating system with a capacity of not more than two hundred fifty kilowatts as is allowed for under paragraph (c) of subdivision (3) of subsection 2 of this section; but at no time shall a rural electric cooperative deny a customer-generator from installing an electric generation system with a capacity of not more than one hundred kilowatts as set out in paragraph (b) of subdivision (3) of subsection 2 of this section.**

[11.] **12.** For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the retail electric supplier shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

[12.] **13.** The estimated generating capacity of all net metering systems operating under the provisions of this section shall count towards the respective retail electric supplier's accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri general assembly.

[13.] **14.** The sale of qualified electric generation units to any customer-generator shall be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric generation units.

Any interested person who believes that the seller of any electric generation unit is misrepresenting the safety or performance standards of any such systems, or who believes that any electric generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

196 [14.] **15.** Any costs incurred under this [act] **section** by a retail electric supplier shall be
197 recoverable in that utility's rate structure.

198 [15.] **16.** No consumer shall connect or operate an electric generation unit in parallel
199 phase and synchronization with any retail electric supplier without written approval by said
200 supplier that all of the requirements under subdivision (1) of subsection 7 of this section have
201 been met. For a consumer who violates this provision, a supplier may immediately and without
202 notice disconnect the electric facilities of said consumer and terminate said consumer's electric
203 service.

204 [16.] **17.** The manufacturer of any electric generation unit used by a customer-generator
205 may be held liable for any damages to property or person caused by a defect in the electric
206 generation unit of a customer-generator.

207 [17.] **18.** The seller, installer, or manufacturer of any electric generation unit who
208 knowingly misrepresents the safety aspects of an electric generation unit may be held liable for
209 any damages to property or person caused by the electric generation unit of a customer-generator.

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